



DEPARTMENT OF THE NAVY

OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, DC 20350-2000

5720

Ser DNS36SF/14U106106

July 30, 2015

Sidney L. Matthew, P.A.
135 South Monroe Street, Suite 100
P.O. Box 1754
Tallahassee, FL 32302

Dear Mr. Matthew:

This is in reference to your Freedom of Information Act (FOIA) request dated June 12, 2014. Your request was received in our office on June 12, 2012 and assigned FOIA Case Number DON-NAVY-2014-006768.

You requested:

1. The Navy Marine Corps Intranet Continuity of Services Contract (and amendments) by and between HP Enterprise Services, LLC (prime contractor) and the Navy described in the November 8, 2013, "Report of the Investigation into the Fatal Shooting Incident at the Washington Navy Yard on September 16, 2013, and Associated Security, Personnel and Contracting Policies and Practices(...).

2. The subcontract (and amendments) by and between prime contractor HP Enterprise Services LLC and subcontractor THE EXPERTS Inc. for the Navy Marine Corps Intranet Continuity of services contract described in the November 8, 2013, "Report of the Investigation into the Fatal Shooting Incident at the Washington Navy Yard on September 16, 2013, and Associated Security, Personnel and Contracting Policies and Practices(...).

3. HPES statement of work for subcontracting of solutions and projects in support of CoSc N 00039-10-D-0010 agreement #1 version #2 dated 11 January 2012(...).

4. RD 2.27 HPES statement of work for subcontracting of solutions and projects in support of CoSc N 0039-10-D-0010 agreement #1 version #2 dated 11 January 2012(...).

5. CoSc contract (and amendments) awarded by SPAWAR (N 0003 9-10-D-0010 dated 8 July 2010)(...).

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In regards to Item 1 and 5 of your request, after reviewing your request and the November 8, 2013, "Report of the Investigation into the Fatal Shooting Incident at the Washington Navy Yard on September 16, 2013," the associated documents referred in the footnotes that you are seeking appear to be the same document. Please be advised the Department of Navy has previously released documents related to the subject matter of Items 1 and 5 of your request. These documents are available at http://www.public.navy.mil/spawar/PEOEIS/NEN/NMCI/Documents/N00039-10-D-0010_P00007.pdf under the header CONTINUITY OF SERVICE CONTRACT.

The documents you requested, in Items 2 is considered subcontract documentation. In accordance with 5 U.S.C. § 552(f)(2), the Freedom of information Act (FOIA), the U.S. Navy only maintains, "information that would be an agency record subject to the requirements of [the FOIA] when maintained by an agency in any format, including an electronic format." While the U.S. Navy maintains cognizance over contracts between itself and a contractor, once the contractor enters into a subcontract with a third party, the Navy's cognizance does not extend to those third party records.

In regards to Item 3 and 4 of your request, after reviewing your request and the November 8, 2013, "Report of the Investigation into the Fatal Shooting Incident at the Washington Navy Yard on September 16, 2013," the associated documents referred in the footnotes that you are seeking appear to be the same document, The "HPES statement of work for subcontracting of solutions and projects in support of CoSc N 00039-10-D-0010 agreement #1 version #2 dated 11 January 2012. This responsive document was voluntarily submitted to the Navy in response to the now concluded JAGMAN, "Investigation into the Fatal Shooting Incident at the Washington Navy Yard on 16 September 2013." In accordance with Executive Order 12,600 that governs the handling of such submitted contractor information, this office forwarded this record to the submitter of the original document HP Enterprise Services (HPES), as it contains information that they may consider exempt from release under 5 U.S.C. § 552 (b)(4). This FOIA exemption applies to "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." In consideration of the recommendation of the submitter, HPES, this office concurs with their objection to the release of this document as it contains proprietary and confidential information belonging to HPES that, if released, threatens to impair the Government's ability to obtain necessary information in the future and to cause

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substantial harm to the competitive position of the person from whom the information was obtained.

In this instance, the fees associated with the processing of this request have not been assessed. Please be advised, however, that fees, fee categories, and fee waivers are determined on a case-by-case basis, and a previous determination has no influence on future determinations.

Because your request is partially denied, you are advised of your right to appeal the denial of your request by writing to:

Office of the Judge Advocate General
1322 Patterson Ave, SE, Ste 3000
Washington Navy Yard, DC 20374-5066

Your appeal must be postmarked within sixty calendar days from the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this decision to be in error.

Additionally, the 2007 FOIA amendments directed the Chief FOIA Officer of each agency to designate one or more FOIA Public Liaisons. Please be advised that the DON FOIA Public Liaison is available to assist in disputes between the requester and the agency. The role of the Liaison is to provide FOIA requesters with an avenue to raise concerns about the service received from a Navy Requester Service Center. You may write to the DON FOIA Public Liaison at Department of the Navy Chief Information Office (DON CIO), 1000 Navy Pentagon, Washington, DC 20350-1000. Alternately, you may contact the DON FOIA Public Liaison via telephone at (703) 695-1297, via fax at (703) 614-4388, or via email at DONFOIAPublicLiaison@navy.mil.

In this instance, the fees associated with the processing of this request were below the minimum threshold and have not been assessed. Please be advised, however, that fees, fee categories, and fee waivers are determined on a case-by-case basis, and a previous determination has no influence on future determinations.

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Questions regarding the action this office has taken during the processing of your request may be directed to our FOIA Service Center at (202) 685-0412.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Patterson", with a stylized flourish extending to the right.

R. PATTERSON

Head, DON PA/FOIA Program Office